

N6TVCORP

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

11 Cr. 205 (AKH)

5 CLIVER ANTONIO ALCALA
6 CORDONES,

7 Defendant.

Plea

-----x

8 New York, N.Y.
9 June 29, 2023
10 2:50 p.m.

11 Before:

12 HON. ALVIN K. HELLERSTEIN,

13 District Judge

14 APPEARANCES

15
16 DAMIAN WILLIAMS,
17 United States Attorney for the
18 Southern District of New York
19 KYLE A. WIRSHBA
20 KAYLAN E. LASKY
21 Assistant United States Attorneys

22 CESAR de CASTRO
23 CRISTIAN FRANCOS
24 ADAM S. KAUFMANN
25 VALERIE GOTLIB
Attorneys for Defendant

Also Present: Gabriel Mitre, Interpreter (Spanish)
Elizabeth Peartree, Intern-USAO

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(Case called)

THE DEPUTY CLERK: Counsel, please state your appearances for the record.

MR. WIRSHBA: Good afternoon, your Honor.

Kyle Wirshba, on behalf of the government. I'm joined at counsel table by my colleague Kaylan Lasky and, with the Court's permission, I am also here with an intern from our office, Elizabeth Peartree.

THE COURT: Thank you.

MR. de CASTRO: Good afternoon, your Honor.

For Mr. Alcala Cordones, Cesar de Castro, Cristian Francos, Valerie Gotlib, and Adam Kaufmann, all seated at counsel's table. And Mr. Alcala Cordones is seated to my right.

THE COURT: Thank you.

Good afternoon, Mr. Alcala Cordones.

Are you working?

THE INTERPRETER: I'm sorry, your Honor. The interpreter requests a repetition.

THE COURT: Sorry?

THE INTERPRETER: The interpreter could not hear your Honor.

THE COURT: Is that better?

THE INTERPRETER: Yes.

THE COURT: Okay. Are we all set?

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1 Mr. Cordones, would you kindly take off your mask.

2 THE DEFENDANT: Thank you very much.

3 THE COURT: Okay. Brigitte, go ahead.

4 THE DEPUTY CLERK: Want me to arraign him?

5 THE COURT: Yes.

6 THE DEPUTY CLERK: All right. You are --

7 THE COURT: We have a superseding information filed by
8 the government. And now, Mr. Alcala Cordones, you're going to
9 be asked to plead to it.

10 Go ahead, Brigitte.

11 THE DEPUTY CLERK: You are Cliver Antonio Alcala
12 Cordones?

13 THE DEFENDANT: Yes.

14 THE DEPUTY CLERK: Have you signed this waiver of
15 indictment?

16 THE COURT: This one-page document, do you have it?

17 THE DEFENDANT: That's right.

18 THE COURT: And you signed it?

19 THE DEPUTY CLERK: Before you signed it, did you
20 discuss it with your attorney?

21 THE DEFENDANT: That's right.

22 THE DEPUTY CLERK: Did he explain it to you?

23 THE DEFENDANT: Yes, sir.

24 THE DEPUTY CLERK: Do you understand what you are
25 doing?

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1 THE DEFENDANT: If you can repeat that.

2 THE COURT: Do you understand that you --

3 THE DEPUTY CLERK: Do you understand --

4 THE COURT: Go ahead, Brigitte.

5 THE DEPUTY CLERK: Do you understand what you are
6 doing?

7 THE DEFENDANT: Yes, I understand.

8 THE DEPUTY CLERK: Do you understand that you are
9 under no obligation to waive indictment?

10 THE DEFENDANT: Yes.

11 THE DEPUTY CLERK: Do you understand that if you do
12 not want to waive indictment, if the government wants to
13 prosecute you, they will have to present this case to a grand
14 jury, which may or may not indict you?

15 THE DEFENDANT: I understand that.

16 THE DEPUTY CLERK: Do you realize that by signing this
17 waiver of indictment, you have given up your right to have this
18 case presented to a grand jury?

19 THE DEFENDANT: Yes, of course.

20 THE DEPUTY CLERK: Do you understand what a grand jury
21 is?

22 THE DEFENDANT: Yes.

23 THE DEPUTY CLERK: Have you seen a copy of the
24 information?

25 THE DEFENDANT: That's right.

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1 THE DEPUTY CLERK: Would you like me to read it to
2 you?

3 THE DEFENDANT: Yes.

4 MR. de CASTRO: One second, your Honor.

5 THE DEFENDANT: No, excuse me.

6 THE DEPUTY CLERK: How do you plead?

7 THE COURT: Just to make sure, if you haven't had the
8 indictment read to you -- not the indictment, the superseding
9 information read to you, we'll be pleased to read it now. If
10 you've already read it, you could tell me, It's not necessary,
11 Judge.

12 THE DEFENDANT: It's not necessary. Thanks very much.

13 THE COURT: Okay. Brigitte.

14 THE DEPUTY CLERK: Would you like me to swear him
15 Judge?

16 THE COURT: How do you plead?

17 THE DEFENDANT: Both charges?

18 THE COURT: Yes.

19 THE DEFENDANT: Guilty.

20 THE COURT: Before I can accept a guilty plea, Mr. --
21 how do I call you, Alcala or -- Mr. Alcala or Mr. Cordones or
22 both?

23 THE DEFENDANT: Mr. Alcala, if that's no problem.

24 THE COURT: No problem.

25 Before I can accept your plea of guilty, Mr. Alcala, I

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1 have to ask you a number of questions under oath.

2 THE DEFENDANT: Right.

3 THE COURT: You have to tell me the truth, the whole
4 truth, and nothing but the truth.

5 THE DEFENDANT: Right.

6 THE COURT: If you don't do that, you can expose
7 yourself to more punishment.

8 THE DEFENDANT: Right.

9 THE COURT: Shall we proceed to give you the oath?

10 THE DEFENDANT: Right.

11 THE COURT: Brigitte. All right, Brigitte.

12 (Defendant sworn)

13 THE COURT: You can put your hand down, Mr. Alcala.

14 THE DEFENDANT: Thank you.

15 THE COURT: What is your full name?

16 THE DEFENDANT: Cliver Antonio Alcala Cordones.

17 THE COURT: How old are you, sir?

18 THE DEFENDANT: I turn 62 in November.

19 THE COURT: Are you married?

20 THE DEFENDANT: Yes, that's right.

21 THE COURT: Do you have any dependent children?

22 THE DEFENDANT: I have three daughters.

23 THE COURT: Are they under the age of 21?

24 THE DEFENDANT: The youngest is eight.

25 THE COURT: And do they live with their mother?

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1 THE DEFENDANT: The three of them live with their
2 mother.

3 THE COURT: Where are you a citizen?

4 THE DEFENDANT: Venezuela; Caracas, Venezuela.

5 THE COURT: Are you also a citizen of the United
6 States?

7 THE DEFENDANT: No.

8 THE COURT: You have a right as a citizen of Venezuela
9 to consult with your consular officials before the proceeding
10 in this court.

11 THE DEFENDANT: I will waive my right to my consulate
12 of my country of origin.

13 THE COURT: Where were you educated?

14 THE DEFENDANT: Excuse me?

15 THE COURT: Where were you educated?

16 THE DEFENDANT: At age 17, I began studying at the
17 Venezuela Military Academy for four years. And I entered the
18 armed forces in 1983 as sublieutenant official.

19 THE COURT: Before you were entering the army, did you
20 finish college?

21 THE DEFENDANT: In Venezuela, university studies also
22 serve for the military. That was for my university studies.

23 THE COURT: You can read and write Spanish?

24 THE DEFENDANT: That's right.

25 THE COURT: We are interpreting this proceeding from

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Spanish to English and from English to Spanish.

THE DEFENDANT: That's right.

THE COURT: All right.

So you entered the military in 1983.

THE DEFENDANT: That's right, through 2013.

THE COURT: Served until 2013?

THE DEFENDANT: That's the time that I completed my service.

THE COURT: What was the highest rank you achieved?

THE DEFENDANT: Major general of the Venezuelan armed forces.

THE COURT: Before you came in today to this court, have you had any alcohol or medicines or anything else that can blur your thinking?

THE DEFENDANT: No, sir.

THE COURT: Are you alert to what is going on?

THE DEFENDANT: Fully, sir.

THE COURT: Have you discussed the case entirely with Mr. de Castro?

THE DEFENDANT: Yes, as with all of the attorneys that are with me.

THE COURT: Are you satisfied with the services of Mr. de Castro and his legal team?

THE DEFENDANT: Very satisfied, sir.

THE COURT: Has anyone intimidated you or caused you

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1 to have fear in order to get you to plead guilty?

2 THE DEFENDANT: No, sir.

3 THE COURT: Has anyone made any promises other than
4 that expressed in a letter of June 15, 2023 to Mr. de Castro?

5 THE DEFENDANT: No.

6 THE COURT: Are you offering to plead guilty because
7 it's something you want to do in the circumstances?

8 THE DEFENDANT: I decided so, sir.

9 THE COURT: Your free act and will?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that in United States
12 courts, you cannot be found guilty of a crime unless the
13 government proves your guilt beyond a reasonable doubt to the
14 satisfaction unanimously of a jury?

15 THE DEFENDANT: I know, sir.

16 THE COURT: That applies to you, as well as to any
17 citizen of the United States.

18 THE DEFENDANT: Right.

19 THE COURT: And you would have the right to be
20 assisted by a lawyer at every step of the proceeding.

21 THE DEFENDANT: I have had that.

22 THE COURT: And with the help of that lawyer, you can
23 challenge any witness, confront any witness, and cross-examine
24 that witness. Do you understand that?

25 THE DEFENDANT: Right.

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1 THE COURT: Do you understand you have a privilege of
2 self-incrimination; that is to say, you are presumed to be
3 innocent, unless and until the government proves you guilty?

4 THE DEFENDANT: I understand that clearly, sir.

5 THE COURT: And with the help of the lawyer, you could
6 cause any witness having favorable information to come to the
7 trial, whether that witness wishes to do so or not.

8 THE DEFENDANT: I know.

9 THE COURT: And you, yourself, would have the right to
10 testify. But if you didn't want to testify, you wouldn't have
11 to. And no inference could be drawn against you for not
12 testifying.

13 THE DEFENDANT: Right.

14 THE COURT: But if you plead guilty, you give up these
15 rights and you authorize me to sentence you just the same way
16 as I'd be authorized by a jury verdict brought in against you.

17 THE DEFENDANT: I know, sir.

18 THE COURT: One possibility of pleading guilty is a
19 removal from this country. Do you understand that?

20 THE DEFENDANT: I understand that, sir.

21 THE COURT: Without an ability to return to this
22 country.

23 THE DEFENDANT: I understand that, sir.

24 THE COURT: Now, I've seen an agreement and a letter
25 of June 15 from the United States Attorney to Mr. de Castro,

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1 with signatures on the back page. Is that your signature over
2 the name Cliver Antonio Alcala Cordones?

3 THE DEFENDANT: That's right, sir.

4 THE COURT: Mr. de Castro, is that your signature?

5 MR. de CASTRO: It is, your Honor.

6 THE COURT: These were dated June 29, 2023.

7 Is that correct?

8 MR. de CASTRO: That's correct.

9 THE COURT: Mr. Alcala, did you go over this very
10 carefully with Mr. de Castro?

11 THE DEFENDANT: Very carefully, sir.

12 THE COURT: You are being charged with two counts
13 under a superseding information. Are you familiar with this
14 superseding information? You just pleaded guilty to it, but
15 you're familiar with it, are you not?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And you're familiar with the allegations
18 of each count?

19 THE DEFENDANT: That's right, sir.

20 THE COURT: Do you wish to plead guilty to both those
21 counts?

22 THE DEFENDANT: Both, sir.

23 THE COURT: Now, you're aware, I take it, you were
24 charged in the first count with providing and aiding and
25 abetting the provision of material support or resources to a

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1 foreign terrorist organization, that is, the *Fuerzas Armadas*
2 *Revolucionarias de Colombia*.

3 THE DEFENDANT: That's right. That's right, sir.

4 THE COURT: Are you aware that that term – that count
5 – carries a maximum term of imprisonment under the statutes of
6 the United States of 15 years in custody?

7 THE DEFENDANT: I understand that, sir.

8 THE COURT: Plus supervised release for life.

9 THE DEFENDANT: Right, sir.

10 THE COURT: And a fine.

11 I didn't get an answer.

12 THE DEFENDANT: Yes, I understand there is a
13 possibility of a fine.

14 THE COURT: And \$100 mandatory special assessment.

15 THE DEFENDANT: Right.

16 THE COURT: And under Count Two, are you aware that
17 that charges you with receiving and transferring firearms and
18 ammunition, knowing and having reasonable cause to believe that
19 such firearms and ammunition would be used to commit the
20 federal crime of terrorism that was charged in Count One of the
21 information?

22 THE DEFENDANT: That's right.

23 THE COURT: And are you aware that that Count Two
24 carries a maximum term of imprisonment of 15 years, a maximum
25 term of supervised release of three years, fine, and a

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1 mandatory special assessment of \$100.

2 THE DEFENDANT: Right.

3 THE COURT: As to the supervised release, conditions
4 are attached, which if they are to be violated, can result in a
5 hearing before the Court and for the term of custodial
6 punishment.

7 THE DEFENDANT: Right.

8 THE COURT: Many crimes have a period of limitations
9 within which they have to be alleged or they are forever barred
10 from the government. You have waived that defense to these two
11 counts. Are you aware of that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: And there's a forfeiture allegation by the
14 government which you are also wishing to admit under Count One
15 of the indictment. Are you aware of that?

16 THE DEFENDANT: Right.

17 THE COURT: What is the form, Mr. Wirshba, of that
18 forfeiture? Is it any money?

19 MR. WIRSHBA: Your Honor, the government is not
20 prepared at this time to make a forfeiture application, but
21 will do so at the appropriate time prior to --

22 THE COURT: Can you tell me what the form of it is
23 right now.

24 MR. WIRSHBA: Your Honor, it would be a monetary
25 forfeiture, if any.

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1 THE COURT: Of money seized by the government?

2 MR. WIRSHBA: No, your Honor. It would be in lieu of
3 money seized by the government.

4 THE COURT: Bottom of page 2 of the letter and going
5 on to pages 3 and 4, there's a recitation of the sentencing
6 guidelines and how they apply to your case.

7 Have you gone over that with Mr. de Castro?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Under the American law -- federal law,
10 crimes are assigned a certain number on a grid, and the
11 criminal history is assigned a certain number, and they make up
12 the sentencing guidelines. And they are advisory on the judge.

13 Are you aware of that?

14 THE DEFENDANT: I understand, sir.

15 THE COURT: I have to make my own study before I
16 sentence you. And I may or may not agree with this study
17 that's presented on pages 2, 3, and 4 of the letter we're
18 talking about. Do you understand that?

19 THE DEFENDANT: Yes, sir.

20 THE COURT: And it's possible I could disappoint you
21 in my sentence, disappoint your expectations.

22 Do you understand that?

23 THE DEFENDANT: I understand so, sir.

24 THE COURT: Whether or not you're disappointed would
25 not give you basis to withdraw from the plea, once I accept it.

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1 Do you understand?

2 THE DEFENDANT: I understand, sir.

3 THE COURT: The analysis we are talking about comes
4 out to a range of 360 months or 30 years to life as a potential
5 sentence against you, a recommended sentence against you by the
6 guidelines. You're aware of that?

7 MR. de CASTRO: Judge, I think because of the
8 maximum --

9 THE COURT: Are you aware that the potential sentence
10 under the guidelines is 360 months to life?

11 MR. WIRSHBA: Your Honor, if I may.

12 I believe that because these two crimes have a 15-year
13 statutory max, the maximum and the guidelines range is just 360
14 months.

15 THE COURT: 360 months.

16 MR. WIRSHBA: Yes, your Honor.

17 THE COURT: I stand corrected.

18 That under the statute and guidelines, you can be
19 punished up to 360 months, or 30 years.

20 THE DEFENDANT: Right, sir.

21 THE COURT: If I were to sentence you within -- up to
22 that point within the guidelines, you would not have a right to
23 appeal.

24 THE DEFENDANT: I understand, sir.

25 THE COURT: Or seek review after judgment.

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1 THE DEFENDANT: Right, sir.

2 THE COURT: Or ask me for a departure; although you
3 can ask me for a variance.

4 THE DEFENDANT: Right, sir.

5 THE COURT: Mr. Wirshba, is there anything else you
6 want me to discuss under the letter?

7 MR. WIRSHBA: Your Honor, the government is prepared
8 to read the elements of the offense, with the Court's
9 indulgence.

10 THE COURT: Should we then do the admission now or
11 after the elements of the offense?

12 MR. WIRSHBA: I defer to the Court.

13 THE COURT: Do the elements of the offense.

14 MR. WIRSHBA: Yes, your Honor.

15 So the first count, Count One of the information --
16 I'm sorry, your Honor asked me to sit down.

17 Count One of the information charges material support
18 to a designated terrorist organization, in violation of Title
19 18, United States Code, Section 2339B.

20 That crime has three elements:

21 First, the defendant knowingly provided material
22 support or resources to a foreign terrorist organization, here,
23 the FARC.

24 Second, the defendant knew that the organization was a
25 designated terrorist organization or that the organization had

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1 engaged or was engaged in terrorist activity or terrorism.

2 And third, after the conduct required for the offense
3 occurred, the offender was brought into or found in the United
4 States, even if the conduct required for the offense occurs
5 outside the United States.

6 Count Two is the transportation or receipt of a
7 firearm or ammunition for use in a crime of terrorism, in
8 violation of Title 18, United States Code, Section 924(h).

9 That crime has two elements:

10 First, that the defendant knowingly received or
11 transferred a firearm or ammunition.

12 And second, the defendant knew that the firearm would
13 be used in a federal crime of terrorism, which includes
14 material support to terrorists as charged in Count One of the
15 indictment.

16 Thank you, your Honor.

17 THE COURT: How would the government set out to prove
18 the case?

19 MR. WIRSHBA: Your Honor, the government would prove
20 its case primarily through witness testimony; but it would also
21 include materials gathered from mutual legal assistance
22 treaties from outside of the United States, as well as
23 electronic evidence seized through search warrants.

24 THE COURT: How would you prove venue?

25 MR. WIRSHBA: Your Honor, the government would prove

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1 venue in this case because the defendant was first brought to
2 the Southern District of New York and landed here in this
3 district.

4 THE COURT: So although it was a crime that was done
5 extraterritorially, there's venue and jurisdiction to the point
6 where the defendant was brought into the United States.

7 MR. WIRSHBA: Yes, your Honor. Precisely.

8 THE COURT: Mr. de Castro, have you reviewed the
9 government proofs?

10 MR. de CASTRO: Yes, your Honor.

11 THE COURT: Do you believe that the government can
12 prove a *prima facie* case?

13 MR. de CASTRO: I do.

14 THE COURT: Is there any reason why Mr. -- why I
15 should not accept a plea of guilty by Mr. Alcala?

16 MR. de CASTRO: No reason.

17 THE COURT: Mr. Alcala, are you offering to plead
18 guilty because you believe that you are, in fact, guilty of
19 each of the Counts One and Two of the superseding information?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: At this point, I would ask you to tell me
22 what you did. But I see that there is an admission in the plea
23 letter that we were discussing before. I'm going to read it to
24 you. You'll tell me that if, in fact, you believe that each
25 and every part of this is true. I'll stop at each sentence

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1 along the way.

2 The defendant — that is you, Mr. Alcala Cordones —
3 hereby admits the following facts:

4 First, beginning in or about 2006, while you were a
5 general in the National Bolivarian Armed Forces of Venezuela,
6 you provided support to the FARC.

7 I'll stop there.

8 Is that a true statement?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: And is the National Bolivarian Armed
11 Forces of Venezuela the military of Venezuela?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: You were a general?

14 THE DEFENDANT: I was the commander of the military
15 part.

16 THE COURT: Equivalent to a general?

17 THE DEFENDANT: Yes, yes.

18 THE COURT: Was this military under the direction of
19 Hugo Chavez, among others?

20 THE DEFENDANT: That's right, sir.

21 THE COURT: Was Mr. Chavez then the president of
22 Venezuela?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Did you know in 2006, around the time you
25 were a general, that FARC members engaged in drug trafficking

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1 and kidnappings to support its goals?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And the paragraph carries out -- it sets
4 out a number of examples. First example: Did you know that
5 members of FARC -- withdrawn. Did you know that -- start
6 again. I'm sorry.

7 Did you, as general, prevent members of FARC and
8 associates from being arrested by Venezuela law enforcement
9 officials?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Or by the military?

12 THE DEFENDANT: I commanded the military.

13 THE COURT: So you, as commander, prevented members of
14 FARC and associates from being arrested?

15 THE DEFENDANT: That's right, sir.

16 THE COURT: Mr. Wirshba, there was a phrasing "engaged
17 by the Venezuela military," what does that mean?

18 MR. WIRSHBA: Your Honor, through the wording
19 "engaged," we intended to indicate conflict.

20 THE COURT: Intend to what?

21 MR. WIRSHBA: Conflict, your Honor. So conflict
22 between the FARC and the military, as opposed to civilian
23 arrests.

24 THE COURT: What do you mean by -- you can take off
25 the mask when you speak.

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1 What do you mean by contact?

2 MR. WIRSHBA: I mean military contact, your Honor.

3 THE COURT: What is the charge, that Mr. Alcala
4 prevented contact between FARC members and the military?

5 MR. WIRSHBA: Yes, your Honor. Whereas, otherwise,
6 the military may have engaged the FARC, the defendant prevented
7 the military from engaging the FARC militarily.

8 THE COURT: Is that so, Mr. Alcala? Did you, as
9 general, command that the military would not pursue members of
10 FARC or their associates?

11 THE DEFENDANT: To prevent their contact with the
12 FARC, sir.

13 THE COURT: The answer is yes?

14 THE DEFENDANT: Yes.

15 THE COURT: And did you, when you were general,
16 provide protection, including freedom of movement and freedom
17 from interference, for members of FARC and their associates?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Even though you knew that they trafficked
20 in cocaine?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And even though you knew -- withdrawn.

23 And you, in addition, provided weapons to FARC?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And among other things, the weapons

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1 included 20 grenades?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And two grenade launchers?

4 THE DEFENDANT: 3.5 grenade launchers, sir.

5 THE COURT: Both intended for a Luciano Marín Arango?

6 THE DEFENDANT: Half for Mr. Luciano Marín Arango, and
7 the other half for Mr. Londoño, Timochenko.

8 THE COURT: And who are they?

9 THE DEFENDANT: They were the number one and number
10 two people of the FARC in the territory that corresponded to me
11 in Venezuela.

12 THE COURT: And they were involved in -- and were they
13 involved in trafficking in narcotics?

14 THE DEFENDANT: Whether they did so, that was their
15 responsibility; at no point did they do it with me.

16 THE COURT: But you knew they were doing it.

17 THE DEFENDANT: They did it in their territory.

18 THE COURT: But you knew about that?

19 THE DEFENDANT: It was a consequence of many years,
20 because that organization depended on drug trafficking to
21 support themselves.

22 THE COURT: The question is whether you knew that.

23 THE DEFENDANT: I knew it, sir.

24 THE COURT: Knowing that you provided weapons and
25 other assistance to that organization and to these people.

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1 THE DEFENDANT: Yes, sir.

2 THE COURT: And you were aware that the gentleman
3 named Luciano Marín Arango, also was known as Iván Márquez, and
4 also was known as Rodrigo Londoño Echeverri, and also known as
5 Timochenko.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Did you know that the United States
8 Secretary of State had designated FARC a foreign terrorist
9 organization?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: You knew that at the time you were giving
12 material aid and support to FARC?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: You knew that FARC had been engaged in
15 terrorist activities?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: And in terrorism, that was defined in
18 United States law.

19 THE DEFENDANT: That's right, sir.

20 THE COURT: Did there come a time when you came to the
21 United States in Manhattan?

22 THE DEFENDANT: Can you repeat the question please?

23 THE COURT: Did there come a time when you came into
24 the United States?

25 THE DEFENDANT: No, I turned myself in, in Colombia.

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1 THE COURT: And you were brought to the United States?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: To New York City?

4 THE DEFENDANT: On the 26th -- on March 26th of 2020.

5 MR. WIRSHBA: Your Honor, if I may proffer.

6 THE COURT: You may.

7 MR. WIRSHBA: The defendant was brought to Westchester
8 County first, and arrested there.

9 THE COURT: Is that so, Mr. Alcala?

10 THE DEFENDANT: When I got off the plane, I understand
11 that I was already under arrest.

12 THE COURT: Was that in Westchester County?

13 MR. de CASTRO: Your Honor, if I may.

14 I don't think he knew he was in Westchester at the
15 time. We have no reason -- we are waiving that --

16 THE COURT: You don't dispute that.

17 MR. de CASTRO: We don't dispute that he was in White
18 Plains. My understanding is that he landed in White Plains.

19 THE COURT: Is there anything else I need to cover?

20 MR. WIRSHBA: No, your Honor. To the extent the
21 defendant is going to allocute in his own words, I think that
22 is all that remains.

23 THE COURT: Is there anything I need to cover more,
24 Mr. de Castro?

25 MR. de CASTRO: No, your Honor.

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1 THE COURT: Mr. Alcala.

2 MR. de CASTRO: No, Judge, we're good.

3 THE COURT: Anything else -- you want to tell me
4 something? Mr. de Castro.

5 MR. de CASTRO: No, your Honor. No, your Honor.

6 Thank you.

7 THE COURT: Mr. Alcala, I accept your plea of guilty
8 to Counts One and Two of the superseding information. I find
9 that your plea is voluntary --

10 MR. WIRSHBA: Your Honor, if I may. I apologize.

11 I don't believe that the defendant has allocuted -- I
12 think there were facts laid out, but I don't think the
13 defendant has allocuted as to both counts.

14 THE COURT: I thought I had covered that.

15 What did I miss?

16 MR. WIRSHBA: I think your Honor just didn't ask the
17 defendant in his own words why it is that he's guilty of Count
18 One and Count Two.

19 THE COURT: Why --

20 MR. WIRSHBA: What he did that made him guilty of
21 Count One and also of Count Two, your Honor.

22 THE COURT: He told me he gave material support,
23 right, and aided and abetted FARC, knowing that it was a
24 terrorist organization and engaged in terrorism.

25 MR. WIRSHBA: He did, your Honor.

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1 THE COURT: Told me that it was in the form of grenade
2 launchers and grenades.

3 MR. WIRSHBA: He did, your Honor.

4 Then the government would just ask that you allocute
5 to the defendant as to the fact that he knew the firearm would
6 be used in a federal crime of terrorism.

7 THE COURT: Did you know that?

8 THE DEFENDANT: Yes.

9 MR. WIRSHBA: Thank you, your Honor.

10 THE COURT: Anything else?

11 MR. WIRSHBA: No, your Honor.

12 THE COURT: Mr. Alcala, I accept your plea of guilty
13 to Counts One and Two of the superseding information. I find
14 that your plea was voluntary, that you understand the
15 consequences, that there is an independent basis in fact to
16 support both your plea of guilty to Count One and your plea of
17 guilty to Count Two.

18 I instruct the clerk to enter the plea of guilty for
19 Mr. Alcala on the court dockets.

20 Sentencing will occur?

21 THE DEPUTY CLERK: October 4th, at 12 noon.

22 THE COURT: We order probation to develop a report.

23 We ask Mr. Wirshba to obtain a copy of this
24 allocution, to provide it to the probation officer prior to
25 conducting any interview of Mr. Alcala.

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1 And we order the probation officer to give
2 Mr. de Castro notice so that he or his staff may attend, if
3 they wish, to any interview.

4 Is there anything else?

5 MR. WIRSHBA: Nothing from the government, your Honor.

6 MR. de CASTRO: Nothing from the defense, your Honor.

7 THE COURT: Thank you, all. Good-bye.

8 * * *